

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

IN RE: BANK OF AMERICA)	
WAGE AND HOUR EMPLOYMENT)	
LITIGATION)	Case No. 10-MD-2138-JWL
)	
This Order Relates to All Cases)	

ORDER

On May 13, 2011, the parties filed a Joint Stipulation (ECF No. 226) postponing the deadline for Plaintiffs to disclose their expert witnesses and requesting the Court hold a status conference to discuss a revised Scheduling Order in this case.

On June 3, 2011, the Court conducted a status conference with the parties. Plaintiffs appeared through counsel George Hanson, Virginia Crimmins, Dan Craig, and Marcus Bradley. Defendants appeared through counsel Jack Rowe, Matthew Kane, Michael Mandel, and Aaron Longo. Due to the complexity of discovery in this case, the Court finds good cause exists to modify the current Scheduling Order.

Accordingly,

IT IS THEREFORE ORDERED that the current Scheduling Order (ECF No. 123) shall be amended as follows:

1. Alternative Dispute Resolution (ADR).

a. Mediation is not ordered at this time. The Court will re-evaluate the appropriateness of mediation after any motions for class certification or collective action certification have been ruled upon.

2. Discovery.

a. Any pre-certification discovery (meaning discovery directed towards certification issues under Fed. R. Civ. P. 23 and/or Section 216(b) of the Fair Labor Standards Act) shall be commenced or served in time to be completed by **December 16, 2011**. Discovery is not strictly limited to certification issues, however, and the Court anticipates that some merits discovery will occur in this phase of discovery. After any motions for class certification or certification of a collective action have been ruled upon, the Court will hold another scheduling conference to discuss case management deadlines for any remaining discovery.

b. Disclosures required by Fed. R. Civ. P. 26(a)(2), including reports from retained experts, regarding certification issues shall be served by plaintiff by **September 30, 2011**, and by defendant by **October 28, 2011**. Disclosures and reports by any rebuttal experts shall be served by **November 18, 2011**. The parties shall serve any objections to such disclosures (other than objections pursuant to Fed. R. Evid. 702-705, *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999), or similar case law), within 11 days after service of the disclosures upon them.

c. Supplementations of disclosures under Fed. R. Civ. P. 26(e) shall be served at such times and under such circumstances as required by that rule. In addition, such supplemental disclosures shall be served by **November 4, 2011**, approximately 40 days before the deadline for completion of all certification discovery.

3. Motions.

a. Any motion for class certification pursuant to Fed. R. Civ. P. 23 or certification of a collective action pursuant to section 216(b) of the FLSA shall be filed no later than forty-five (45) days from the close of pre-certification discovery, or by **January 30, 2012**. Defendants' response

shall be filed within 30 days of Plaintiffs' filing. Any reply by Plaintiffs shall be filed within 21 days of Defendants' response.

b. Any motion for leave to join additional parties or to otherwise amend the pleadings shall be filed **180 days** after the order regarding certification of any collective action pursuant to section 216(b) of the FLSA.

IT IS SO ORDERED.

Dated this 3d day of June, 2011, at Topeka, Kansas.

s/K. Gary Sebelius
K. Gary Sebelius
U.S. Magistrate Judge